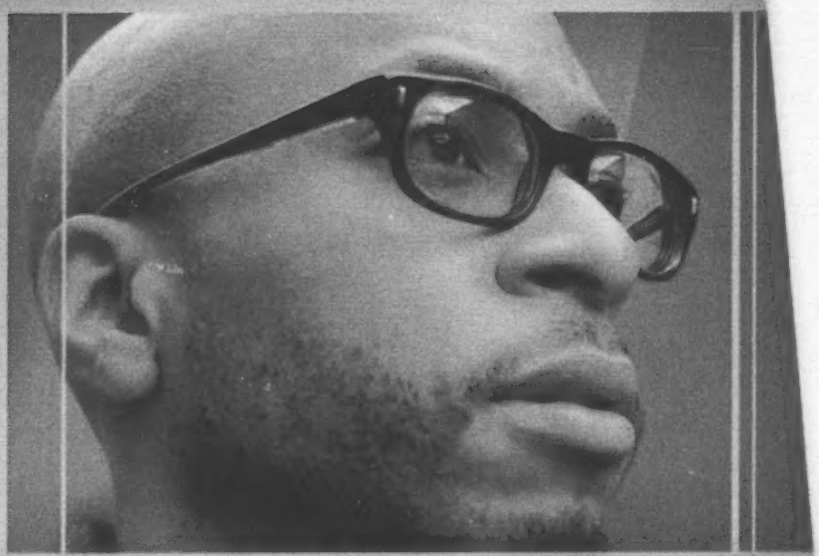
CANADIAN HUMAN RIGHTS COMMISSION
COMMISSION CANADIENNE DES DROITS DE LA PERSONNE

RESPECT
PROTECTION
PROMOTION
EQUALITY



2008 ANNUAL REPORT

Canada

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CANADIAN HUMAN RIGHTS COMMISSION
COMMISSION CANADIENNE DES DROITS DE LA PERSONNE

Chief Commissioner *Présidente*

March 2009

The Honourable Noël A. Kinsella
Speaker of the Senate
The Senate
Ottawa, Ontario K1A 0A4

Dear Mr. Speaker,

Pursuant to section 61 of the *Canadian Human Rights Act* and section 32 of the *Employment Equity Act*, I have the honour to transmit the 2008 Annual Report of the Canadian Human Rights Commission to you for tabling in the Senate.

Yours sincerely,

Jennifer Lynch, Q.C.

Jennifer Lynch, Q.C.

Encl.
c.c.: Mr. Paul Bélisle
Clerk of the Senate and Clerk of the Parliaments

Ottawa, Canada K1A 1E1

CANADIAN HUMAN RIGHTS COMMISSION

COMMISSION CANADIENNE DES DROITS DE LA PERSONNE

Chief Commissioner *Présidente*

March 2009

The Honourable Peter Milliken, M.P.
Speaker of the House of Commons
House of Commons
Ottawa, Ontario K1A 0A6

Dear Mr. Speaker,

Pursuant to section 61 of the *Canadian Human Rights Act* and section 32 of the *Employment Equity Act*, I have the honour to transmit the 2008 Annual Report of the Canadian Human Rights Commission to you for tabling in the House of Commons.

Yours sincerely,

Jennifer Lynch, Q.C.

Jennifer Lynch, Q.C.

Encl.
c.c.: Ms. Audrey O'Brien
Clerk of the House of Commons

Ottawa, Canada K1A 1E1

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CHIEF COMMISSIONER'S MESSAGE

Sixty years ago, the Universal Declaration of Human Rights united the world in recognizing values that transcend cultures and traditions. By embracing the Universal Declaration's principles and the civil, political, social and economic rights they are designed to protect, Canada has endeavoured to create a society known for its fairness, compassion and respect for all.

Celebrating this important anniversary with other members of Canada's human rights community reminded us that human rights are a responsibility that belongs to everyone. Building on the Declaration's legacy, our collective perseverance and innovation ensure that human rights continue to evolve to reflect our changing society.

The Commission continues to refine its approach to promoting and protecting the rights of every Canadian. Drawing inspiration and insight from our past accomplishments, we continue to serve as a dynamic human rights leader, anticipating emerging issues and developing innovative and practical responses.

The repeal of section 67 of the *Canadian Human Rights Act* gave more than 700,000 First Nations people full access to protection under the Act. As a major advocate of repeal for the past thirty years, the Commission has been proactive in providing research, consultations and guidance to First Nations organizations, as all stakeholders prepare to implement this monumental inclusion.

Journalists, legislators and the Canadian public participated in a passionate debate on the balance between freedom of expression and protecting Canadians from hatred. The Commission welcomed this discussion and launched a comprehensive review of section 13 of the *Canadian Human Rights Act* to assess whether the current model is the best approach to addressing electronic expressions of hate in Canada.

Within Canada's workplaces, the Commission continued to collaborate with employers to develop innovative discrimination prevention tools and initiatives that foster and sustain a human rights culture. Enhanced pre-audit support encouraged employers to fulfill their responsibilities set by the *Employment Equity Act* before they engaged in the audit process.

In fulfilling our mandate to deal with human rights complaints, the Commission continued to encourage people to find solutions using early dispute resolution processes – reducing emotional distress, strengthening morale, increasing productivity and saving time and money.

Internationally, we are ably fulfilling our role as Chair of the International Coordinating Committee of National Human Rights Institutions, leading that organization through an overhaul of its governance and fostering dynamic dialogues on thematic issues of major international importance.

The Commission noted with sadness the passing of its first Chief Commissioner, Mr. Gordon Fairweather. Mr. Fairweather was a human rights pioneer and visionary, whose unwavering drive to redefine human rights in Canada remains a source of inspiration in our work.

Within the Commission, we continue to nurture an internal culture of respect, dignity, and understanding. It is a privilege to lead people committed to fairness, compassion and respect. Their integrity, expertise and professionalism are the foundation of all that we achieve.

We believe in the difference that we make and are proud to lead the way in human rights promotion and practice.

Jennifer Lynch, Q.C.
Chief Commissioner
Canadian Human Rights Commission

THE COMMISSION'S MANDATE

The Canadian Human Rights Commission's founding legislation inspires a vision for Canada in which "all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have," free from discrimination.

The Commission leads the administration of the *Canadian Human Rights Act* (CHRA) and ensures compliance with the *Employment Equity Act* (EEA). The CHRA prohibits discrimination on the grounds of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for which a pardon has been granted. The EEA promotes equality in the workplace of the four designated groups: women, Aboriginal peoples, persons with disabilities, and members of visible minorities.

Both laws apply the principles of equal opportunity and non-discrimination to federal government departments and agencies, Crown corporations and federally regulated private sector organizations. The provinces and territories have laws similar to the CHRA that address discrimination.

Following many years of debate, the section of the CHRA that denied First Nations peoples full access to human rights law was repealed by Parliament in June 2008. The repeal is a milestone in the development of human rights law in Canada.

Responsibilities

The Commission has a mandate under the CHRA to promote equality of opportunity and to protect individuals from discrimination in employment and in the provision of services. A key part of the Commission's mandate is to engage in promotion and prevention activities that will foster public understanding of the role and activities of the Commission and of its core principle: equality of opportunity. The mandate also includes receiving and processing complaints, investigating those that are determined to be within the Commission's jurisdiction, and making a determination as to the outcome: dismissal, conciliation, or a hearing by the Canadian Human Rights Tribunal. Throughout the complaints process, the Commission encourages settlements by providing opportunities for dialogue and mediation.

Under the EEA, the Commission audits federally regulated employers to ensure that they are providing equal opportunities for employment. In doing so, the Commission contributes to the elimination of employment barriers in the workplace.

Commissioners

Chief Commissioner: Jennifer Lynch, Q.C.

Deputy Chief Commissioner: David Langtry

Part-time Commissioners: Robin A.M. Baird, Sandi Bell, Yvonne M. Boyer, Roch A. Fournier

From left to Right: *Robin A.M. Baird, Sandi Bell, Yvonne M. Boyer, Roch A. Fournier and David Langtry.*

INFORMING AND INFLUENCING PUBLIC DEBATE

"Our progress is measured by our ability to be an effective influence within our rapidly changing society."

Chief Commissioner Lynch speaking on June 17, 2008, during the Canadian Association of Statutory Human Rights Agencies' 2008 Annual Conference.

The constant and complex evolution of Canadian society directly influences the human rights landscape. The work performed by the Commission's legal experts, investigators, auditors, advisors and researchers all contributes to identifying human rights trends. In turn, proactive research initiatives and policy development stimulate informed discussion and support organizations looking for practical ways to integrate human rights into their daily practices.

The issues highlighted within this section represent some of the current and emerging human rights challenges shaping Canadian society.

Repeal of Section 67: Full Equality of First Nations People Before the Law

This year marked a significant milestone in Canadian human rights history. The repeal of section 67 of the *Canadian Human Rights Act* in June 2008 lifted the 30-year exemption on complaints related to the *Indian Act*, and extended full human rights protection to more than 700,000 First Nations people.

Previously, section 67 impaired the Commission's ability to deal with status issues associated with the *Indian Act*, housing and education decisions made by Band Councils, and by-laws or federal government decisions pursuant to the *Indian Act*.

A three-year transition period built into the repeal legislation means that the *Canadian Human Rights Act* does not yet fully apply to First Nations governments, though the Act now applies to the federal government's administration of programs and services under the *Indian Act*.

The Repeal of Section 67

With the Repeal of section 67 the Commission is developing internal legal expertise in Aboriginal law. The Commission has also taken proactive steps to provide specialized training to front-line staff and developed guidelines for receiving complaints from Aboriginal people.

Now more than ever, it is clear that the situation of First Nations people is one of the most important human rights issues confronting Canada today. The reality for many First Nations communities is ongoing poverty and an increasing gap in living conditions compared with other Canadians. Improving this situation will require concrete action by all parties.

With the repeal of section 67, First Nations people now have a new avenue to raise concerns of discrimination. As well, the establishment of a Truth and Reconciliation Commission, and the government's apology to Aboriginal peoples for abuses experienced in residential schools are also both steps in the right direction.

The repeal of section 67 marks a beginning, not an end. The achievement of repeal brings new challenges, and heightened responsibility. One key responsibility is to increase awareness and understanding of human rights principles within the context of the unique histories and cultures of First Nations in Canada. This enormous task will require a new outlook on collective rights as they are balanced with individual rights and how they fit in the bigger perspective of advancing the human rights of Aboriginal peoples in Canada.

The three-year transition period provides an opportunity for First Nations governments to examine policies and practices to ensure that they respect and recognize the human rights of First Nations people in Canada under the *Canadian Human Rights Act*.

As we progress towards implementing repeal, the Commission looks forward to working closely with First Nations organizations to build a system that reflects and respects their cultures and traditional laws. Many communities already have their own ways of protecting these rights. The Commission and the Canadian public have much to learn from the rich history of traditional methods, which include healing circles and other elder-assisted processes.

Human rights issues are best resolved in the communities where they occur. Working together, we can ensure that the appropriate processes, resources and capacity are in place to do so.

Mental Health

It has been estimated that mental illness, in particular depression, will soon rank as the leading source of workplace disability. If not managed properly, workplace-related mental health issues can lead to increased rates or levels of illness and result in absenteeism, tension and conflicts between colleagues. Employee performance may deteriorate and morale may decline. Furthermore, negative attitudes toward mental illness lead to stereotypes, fear and discrimination. The stigma associated with mental illness can discourage or delay individuals from seeking treatment and can have major impact on a person's professional life.

As an employer, the Commission has responded to this emerging issue by creating an internal policy on mental health in the workplace. The policy outlines the accommodation process and provides guidance to help managers take proactive steps to ensure employees with a mental illness are offered appropriate accommodation.

Showcased at the Commission's 2008 Discrimination Prevention Forum in October, the policy has been made available to other organizations as a model they can adapt for their own use.

Freedom of Expression and Hate on the Internet

Throughout 2008 there was a vigorous debate about freedom of expression and section 13 of the *Canadian Human Rights Act* – the section prohibiting the electronic transmission of hate messages.

Beyond the heated rhetoric, the current debate is part of a centuries-old question on where exactly the line should be drawn between one citizen's freedom of speech and another citizen's right to be protected from harm caused by vilification and hatred.

The freedom to express ideas and opinions is fundamental to both democracy and human rights. Exercising the right to freedom of expression takes place within a context of competing values. With freedom comes responsibility. Human rights are not hierarchical; in fact the rights structure is more accurately viewed as a matrix. As the 1993 United Nations Vienna Declaration explained: "All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis."

Acknowledging that no right is absolute, it is up to legislatures and the courts to strike a balance when one right conflicts with another. The Supreme Court recognized this in its 1990 Taylor decision. The Court affirmed that the *Canadian Charter of Rights and Freedoms* allows for limitations on extreme forms of speech in order to protect other fundamental Charter values:

> *... It [hate speech] undermines the dignity and self-worth of target group members and ... contributes to disharmonious relations among various racial, cultural and religious groups, as a result eroding the tolerance and open-mindedness that must flourish in a multicultural society which is committed to the idea of equality...*

Freedom of expression and section 13 of the *Canadian Human Rights Act* have proven to be facets of our society that continue to evolve. In 2001, the Act was amended to prohibit the use of the Internet or other electronic communication tools to disseminate hatred.

The rapid shift from print to electronic news meant that the media began operating inside the jurisdiction of section 13. The impact of this shift may not have been fully foreseen when the Act was amended.

The Review of Section 13 – the Moon Report

In 2008 the Commission initiated a comprehensive review of section 13 and its role in dealing with hate on the Internet. The review was designed to assess whether the current model is the best approach to dealing with electronic hate in Canada. The Commission retained leading constitutional law expert Richard Moon to conduct an independent study, as an integral component of the broader policy review.

Released in November, Professor Moon's report recommends that section 13 be repealed, leaving the police and the courts to handle all extreme forms of expression. The Report also recommends that if section 13 is not repealed, it should be reshaped to more closely resemble a criminal restriction on hate speech.

Professor Moon's report also confirmed that while perceptions exist that the Commission targets "offensive speech," this has not been the case. In fact, the Commission uses a narrow definition of "hate" derived from jurisprudence. His review found that: "section 13 cases that have been sent by the CHRC to the Tribunal and in which the Tribunal has found a breach of the section have almost all involved expression that is so extreme and hateful that it may be seen as advocating or justifying violence against the members of an identifiable group." Professor Moon's report is available on the CD-ROM included with this Annual Report.

The Commission is preparing to deliver a Special Report to Parliament in 2009 that will address what needs to change for the *Canadian Human Rights Act* to remain effective and that will suggest new collaborative approaches to combat hate speech.

Throughout 2008, the Commission welcomed the debate on how to best address hate on the Internet. Dedicated to ensuring that the *Canadian Human Rights Act* remains effective, the Commission's preliminary concern is helping all Canadians live with dignity and respect. Prohibiting hate is part of that responsibility.

Beyond human rights laws and the Criminal Code, finding the right balance between freedom of expression and the dignity and equality of all Canadians is a responsibility that belongs to all of us.

This issue raises the question: what kind of society do we want to live in? It calls into question whether to give free reign to extreme forms of expression, or take careful and reasonable measures to ensure that all Canadians can live in dignity and respect. That is the real challenge our society and the Commission must face.

National Security and the Protection of Human Rights

Accountability is the driving principle behind our parliamentary democracy. It assures that the people hold governments accountable before Parliament for the responsibilities entrusted to them. One of these responsibilities is the obligation to ensure national security while protecting human rights.

According to the 2008 Speech from the Throne, "National security is the most fundamental duty of any national government to its citizens." Parliament has created a security community made up of organizations designed to protect our freedom, democracy, human rights and the rule of law. Their mandates vary from police services offered by the Royal Canadian Mounted Police, the issuance of travel documents by Passport Canada, to border control by the Canada Border Services Agency. Since 2001, with the adoption of the *Anti-Terrorism Act*, their responsibilities have grown, posing new challenges to the protection of human rights.

Human rights as defined by the *Canadian Human Rights Act* are about equal treatment for all. However, in an era of heightened security, this equality may be subject to abuse, especially where appropriate accountability measures are not in place. Accountability is a powerful means to prevent such violations, and it begins with recording each decision taken in the name of national security.

Very few people would deliberately treat others in a manner contrary to the *Canadian Human Rights Act*. Yet in the absence of accurate and factual information, people are prone to fall back on personal stereotypes or profiles. That is why collecting comprehensive data on such things as travel document requests, referrals to secondary search at the border, or stops for inspection are so important. Data collection permits a thorough analysis of the types of decisions made and their impact. Recording such decisions is necessary if organizations are to be held accountable by means of reporting their activities. This would also allow national security monitoring bodies to do their jobs. To date, security agencies and their oversight bodies have all recognized their responsibilities regarding the protection of human rights, but reporting on human rights is not required and remains *ad hoc*.

The Commission recognizes and appreciates the crucial role played by the security community. Canada's success as a diverse society will be measured by the government's ability to safeguard its citizens while protecting human rights.

Many abuses and discriminatory practices can be prevented if the systems in place are designed in such a way as to ensure measures of accountability. Only then will national security agencies and their monitoring bodies be able to assure the public that their human rights are being protected.

The National Security Research Initiative

The Commission has completed three of four research reports that explore various facets of the relationship between national security and human rights. In studying the issue, the Commission has examined current and potential points of friction between national security practices and human rights protection, the extent to which national security agencies and their monitoring bodies consider and report on human rights, and whether profiling is an effective tool in ensuring security. Still to come is a study of the potential areas of discrimination in the certification of a person's identity. The first three reports are available on the CD-ROM included with this Annual Report.

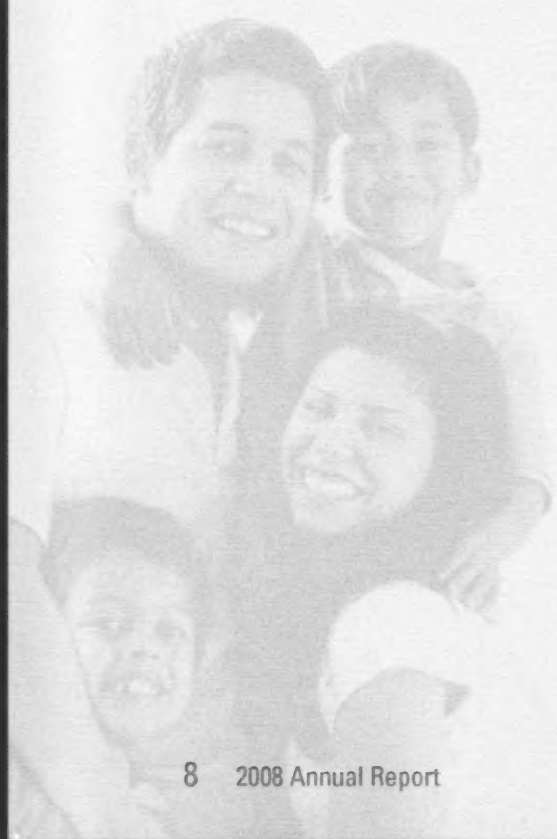
Engaging the Public

Commission representatives attended key events and conferences around the country hosted by partners of the human rights community. Whether participating in spirited debates about freedom of expression, describing the state of racism in Canada or celebrating the United Nations International Day of Persons with Disabilities, the Commission's spokespeople provided insight and perspective on current and emerging human rights issues.

This year marked the 60th Anniversary of the Universal Declaration of Human Rights. The Commission participated in a number of events to mark the anniversary, and hosted an event to raise awareness of human rights and reinvigorate peoples' commitment to the fundamental concepts of personal freedom and respect for the dignity of each individual. The Commission also had the honour of participating in the national Remembrance Day ceremony where the Chief Commissioner laid a wreath to pay special tribute to the men and women who have served so valiantly to uphold Canada's commitment to universal freedom, dignity and justice.

Speeches delivered by members of the Commission are available on the Commission's website.

Home → Resources → News Room → Speeches



Public Information

The Commission's website and publications are an increasingly important source of information for Commission stakeholders and the public. Increased outreach and public awareness intitiatives have encouraged a growing number of Canadians to visit our website and request printed copies of our publications. In 2008, the Commission distributed 88,196 publications and its website was visited 2,165,817 times.

Available on the CD-ROM

- Report to the Canadian Human Rights Commission Concerning Section 13 of the *Canadian Human Rights Act* and the Regulation of Hate Speech on the Internet (the Moon Report)
- Report on National Security and Human Rights Concerns in Canada: A Survey of Eight Critical Issues in the Post-9/11 Environment
- Report on the Effectiveness of Profiling from a National Security Perspective
- Report on Human Rights Issues in National Security: An Inventory of Agency Considerations
- Policy and Procedures on the Accommodation of Mental Illness

ADVANCING
THE HUMAN RIGHTS SYSTEM

"Other countries see
[Canada] as a source of innovative ideas, and a catalyst that inspires advances in human rights around the world."

Chief Commissioner Lynch speaking on December 8, 2008, during a ceremony celebrating the 60th Anniversary of the Universal Declaration of Human Rights.

As a recognized leader in regional and international human rights networks, the Commission energetically spearheads initiatives and builds consensus on a wide variety of human rights issues. The Commission has contributed to creating a culture of cooperation amongst National Human Rights Institutions and advancing their role at every level. The Commission also works with its domestic partners to meet Canada's international human rights obligations and improve and strengthen Canada's human rights system.

Strengthening the Role of National Human Rights Institutions

The Commission is proud to lead the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) at such a dynamic time in its history.

This past year as Chair of the ICC, the Commission:

- modernized the legal and governance framework of the ICC, incorporating it in Swiss jurisdiction;
- increased National Human Rights Institution and ICC engagement with other United Nations human rights mechanisms (i.e. Special Procedures, Treaty Bodies, and the Universal Periodic Review); and
- strengthened the fairness, transparency, and rigour of the ICC accreditation process.

Much of the success achieved over the past year continues to be attributed to active efforts to strengthen a culture of cooperation within the ICC. In its capacity as Chair, the Commission led the development and implementation of a new leadership model and structure that more actively engages all four regions – the Americas, Africa, Asia-Pacific, and Europe – in consensus building and decision making.

To strengthen the Inter-American human rights system, the Commission led steps to advance the role for NHRIs within the Organization of American States. The Organization adopted a resolution in June 2008 that recognized and formalized the participation of national human rights institutions as well as their regional and international coordinating bodies (the Network of the Americas and the ICC).

The Commission also received broad support for its renewal until 2010 as a member of the Coordinating Committee for the Network of the Americas. In this role, the Commission will continue to strengthen National Human Rights Institutions' efforts for the promotion and protection of human rights within the Americas.

The Universal Periodic Review

The Universal Periodic Review is a unique process whereby the human rights record of each of the 192 UN Member States is reviewed once every four years by the United Nations Human Rights Council.

In its capacity as Chair of the ICC, the Commission led the development of best practices and guidelines for National Human Rights Institutions' involvement in the Universal Periodic Review. Regional and international workshops were also held to foster a better understanding of how the ICC can best support National Human Rights Institutions' engagement in the Universal Periodic Review process as well as in the work of the other United Nations human rights mechanisms. The Commission worked in collaboration with the United Nations Office of the High Commissioner for Human Rights; the Canadian-based statutory agency, Rights and Democracy; and the Organisation Internationale de la Francophonie to organize and deliver these workshops.

The Commission was also involved in the Universal Periodic Review process first-hand as Canada is subject to a review in 2009. In developing its submission, the Commission carried out extensive research and consulted with all provincial and territorial human rights commissions in the country, as well as over 60 Non-Governmental Organizations. This consultation was facilitated through the Canadian International Human Rights Network, established by Rights and Democracy.

The Human Rights Report Card

There is currently no systematic way to track how well Canada is achieving its human rights objectives. The Commission has been working diligently to address this issue by creating the Human Rights Report Card. The first of its kind, the Human Rights Report Card will be a powerful tool that provides Canadians with a comprehensive picture of human rights in Canada. This information would in turn assist policy and program makers in identifying where interventions may be required.

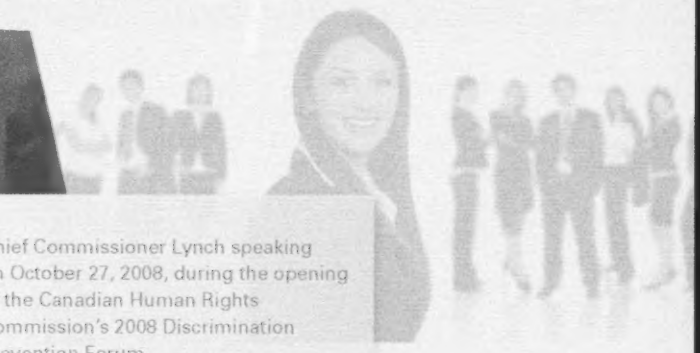
Recognizing that successfully implementing and managing such a tool requires the support of organizations from Canada's human rights community, the Commission engaged the Canadian Association of Statutory Human Rights Agencies; and is in the process of conducting consultations with federal, provincial and territorial government representatives, professionals and experts, and NGOs to ensure that this project is national in scope and speaks to the needs of all Canadians.

Available on the CD-ROM

- Links:
  - Universal Periodic Review Submission
  - Organization of American States
  - International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights
  - Canadian Association of Statutory Human Rights Agencies
  - Rights and Democracy
  - Organisation internationale de la Francophonie

FOSTERING A COLLABORATIVE AND INTERDEPENDENT APPROACH

"At the end of the day, the differences we make in our individual workplaces have an enormous collective impact on the world we share, making it more just and more equitable."



Chief Commissioner Lynch speaking on October 27, 2008, during the opening of the Canadian Human Rights Commission's 2008 Discrimination Prevention Forum.

Collaboration is integral to influencing a positive shift in the culture of human rights. The Commission fosters and sustains interdependent relationships with Canada's federally regulated organizations. Human rights advisors, policy experts, and auditors support organizations in their efforts to integrate human rights into everyday practice so that conflicts are prevented.

Promoting Employment Equity

The Commission works with employers to identify barriers to employment for the four designated groups – women, visible minorities, Aboriginal peoples, and persons with disabilities – and to implement proven practices to eliminate those barriers.

The audit process is designed to gather valuable information on successful strategies and proven practices for increasing representation of the designated groups. This contributes to the Commission's ability to provide employers with targeted advice, prevention tools and enhanced information for the continuous improvement of the human rights culture in their workplaces.

The Commission continues to streamline and simplify its audit and approval processes so that employers are able to resolve issues faster. Concurrently, employers and union representatives benefit from workshops explaining the Commission's employment equity audit process, a simplified framework document, and a compliance audit questionnaire. Through this enhanced pre-audit support, the Commission encourages and enables employers to fulfill their responsibilities and take on a greater role in their compliance with the *Employment Equity Act* before they engage in the audit process.

Efforts continue to be made to increase efficiency and provide greater continuity between the Commission and employers. The Commission is exploring the creation of an employment equity extranet site that would provide employers with a single access point for information on best practices, auditing tools and other resource materials, progress reports, and compliance audit reports. This approach would further streamline the audit process, improve communications between employers and the Commission and make it easier for organizations to take the necessary steps to ensure that they are complying with the Act. Most important, this could facilitate the integration and retention of designated groups in the workplace.

Facilitating Cooperation

The Commission facilitates cooperation and learning amongst employers to share best practices and identify emerging challenges and trends through the Employer Advisory Council and various training and learning opportunities.

The Employer Advisory Council is made up of organizations that have signed Memoranda of Understanding (MOU) with the Commission. Members benefit from a close working relationship with the Commission. In turn, the Commission is informed of emerging issues identified by partner organizations. The Employer Advisory Council also facilitates broader communication. Prevention-related matters, proven practices, tools, and resources reach a greater audience throughout various sectors thanks to the diversity of the Council's membership and the relationships forged by the Commission's offices across Canada.

The Commission's 12 MOU partner organizations have enthusiastically embraced making prevention intiatives a priority because they recognize that achieving the vision of the *Canadian Human Rights Act* will benefit their business and strengthen their reputations. As the Commission continues to successfully promote human rights, more organizations are taking proactive steps to improve their workplaces.

Portrait of the Four Designated Groups in the Canadian Workplace

As part of its mandate to ensure compliance with the *Employment Equity Act*, the Commission tracks progress in the private and public sectors in representation levels of the four designated groups covered by the Act: women, visible minorities, Aboriginal peoples and persons with disabilities.

The goal is to achieve representation for each of the four groups equal to their availability in the workforce.

In the public service, women, Aboriginal peoples and persons with disabilities continue to be fully represented. Members of visible minorities continue to be under-represented when compared to their availability in the workforce.

In the private sector*, members of visible minorities continue to be fully represented based on 2001 Census availability estimates. Persons with disabilities and Aboriginal peoples continue to benefit the least from employment equity initiatives.

Detailed graphs are available on the Commission's website and on the CD-ROM included with this Annual Report.

* Private sector organizations covered by the *Employment Equity Act* include banking, communication, transportation and some other federally regulated organizations.

Leading By Example – Workplace Diversity

In its efforts to encourage employers to achieve workplace diversity, the Commission strives to sustain its representation of designated groups to levels above their availability in the workforce.

The Commission had 181 employees, of whom:

- 65.9% were women (against a target of 59.7%);
- 12.3% were persons with disabilities* (against a target of 3.3%);
- 13.4% were members of visible minorities* (against a target of 8.5%); and
- 2.8% were Aboriginal peoples* (against a target of 2.6%).

* by self-identification

Empowering Employers

Building on the momentum and knowledge generated by working with the Employer Advisory Council, the Commission is focusing its energy on supporting employers in effecting a cultural shift within their organizations.

To this end, the Commission is developing an Integrated Human Rights Maturity Model that will provide organizations with the tools to promote a self-sustaining human rights culture and monitor their own successes. The Commission garnered support for the initiative through consultations with the Employer Advisory Council, the Canadian Bankers Association, FETCO (Federally Regulated Employers – Transportation and Communications), and several other key organizations.

The Maturity Model will provide a system of defined activities required to reach each level of maturity and will help organizations to measure progress in integrating human rights into the workplace. The data collected by its measurement tool will also provide the Commission with an accurate snapshot of the maturity of human rights culture within Canada's federally regulated organizations – information that could serve to influence future research.

In addition, the Commission leverages its resources by certifying employees within federally regulated organizations to deliver human rights training. Graduates of the "Train-the-Trainer" initiative train members of their organization on how to respond to issues of discrimination between colleagues, managers and employees, and even between the organizations and the Canadian public.

A partnership with Human Resources and Skills Development Canada resulted in a significant increase in the number of people qualified to deliver training on Commission tools. The Commission also provides Human Rights Investigation training sessions, which enable organizations to perform internal human rights investigations using the same processes as the Commission. These training approaches maximize the impact of Commission resources and empower employers to effect change within their organizations.

The Commission's fourth annual Discrimination Prevention Forum brought together federally regulated employers and members of civil society from across the country to identify and discuss emerging issues, share knowledge and experience, and develop tools to prevent discrimination. This year's panel discussions and workshops explored the accommodation of religion, family/marital status, and physical disabilities. Proven practices were shared in the areas related to mental health, return-to-work, and religious accommodation.

Leading By Example – Workplace Well-being

As the Commission encourages employers to promote workplace well-being, it leads by example and has created an internal Workplace Well-being Steering Committee to explore wellness needs, propose initiatives, and engage in opportunities to promote best practices throughout the organization. The Steering Committee – made up of employees, managers and union representatives – develops and oversees the implementation of annual workplace well-being action plans, based on consultation and involvement of branches, employees and employee representatives.

The new internal policy on mental health is an integral part of the Commission's commitment to well-being in the workplace. The release of the policy at the Commission was accompanied by an awareness campaign intended to increase understanding of how to accommodate mental illness and how to promote mental health.

Resolving Disputes

If an organization's efforts to prevent discrimination fail, a human rights issue can be brought to the Commission. The Commission is dedicated to resolving disputes in a fair, transparent and effective way. The Commission continues to place increased emphasis on early dispute resolution through mediation and informal dialogue, as these methods allow the parties to craft their own solutions, can help repair the damage to employment relationships and can be quicker. The benefits of mediation can extend beyond the parties resolving their disputes as some settlement terms also provided for systemic and policy changes that benefit Canadian society as a whole.

If a dispute cannot be resolved through dialogue or mediation and the inquirer wishes to pursue the matter, he or she can file a complaint. Once the complaint is accepted, the Commission's new triage function ensures that each complaint is addressed using the most appropriate and timely process.

In each case, the Commission is required to render a decision on the complaint. The commissioners can dismiss the complaint, appoint a conciliator, or refer the matter to the Canadian Human Rights Tribunal for further inquiry.

At year-end, the Commission had an active caseload of 568 complaints, down from 576 the previous year. The average age of its active caseload also decreased from 9.1 months in 2007 to 8.9 months in 2008. Detailed statistics on the complaints received by the Commission are available on the Commission's website and on the CD-ROM included with this Annual Report.

A Settlement Through Mediation

The Commission continues to place increased emphasis on early dispute resolution. Here is an example of a settlement that was reached through mediation.

Ground(s):	Sex
Area:	Employment
Sector:	Transportation
Allegation:	The complainant, a truck driver, alleged that a trainer harassed her and made inappropriate advances and comments during her training period with a transportation company. She further alleged that the company failed to address the situation after she complained.
Settlement:	Financial compensation for general damages Verbal expression of regret Undertaking to develop an anti-harassment policy Anti-harassment training for employees

More examples of settlements in 2008 are available on the Commission's website.

Home → Overview → Resolving Disputes → Settlement Examples

Leading By Example – Bilingual Workplace

The Commission strives to be a model of good management and is committed to providing a fully bilingual workplace where staff may work in the official language of their choice.

- 74.6% of positions at the Commission were designated bilingual imperative, 23.2% were English essential, and 2.2% were either English or French.
- 52.5% of employees reported that their first official language was English, while 47.5% indicated it was French.

Litigation

Litigation is an important method for establishing precedents, advancing thinking and providing clarity in evolving areas of law.

The Commission continued to represent the public interest by intervening in high impact cases at the Canadian Human Rights Tribunal and Federal Court in order to further human rights law for all Canadians. The Commission's involvement in these cases supports its strategic objective of acting as a proactive and influential catalyst for moving forward on human rights issues. Our successes – and those of many other parties engaged in these cases – further jurisprudence to support human rights advances for all. And yet, a next step is always necessary: it is important for employers and service providers to inform themselves of these judicial rulings and adapt their future actions accordingly. The Commission's future focus will encourage these positive shifts. Descriptions of cases that helped clarify the human rights landscape in 2008 are available on the Commission's website and on the CD-ROM included with this Annual Report.

About this Annual Report

The Annual Report includes a CD-ROM that contains research reports, statistics, links and documents relevant to the issues discussed in the Report. The PDF version of this Annual Report is also included on the CD-ROM.

Distinguishing Between the Commission and the Tribunal

The Canadian Human Rights Commission and the Canadian Human Rights Tribunal are separate and independent organizations. When the Commission finds that a complaint warrants further inquiry, it refers the case to the Canadian Human Rights Tribunal. The Tribunal holds public hearings at which both sides can present their arguments and call witnesses. The Tribunal determines whether there has been discrimination based on a prohibited ground. If appropriate, the Tribunal orders a remedy.

Available on the CD-ROM

- Employment Equity Compliance Program (statistics and proven practices)
- Dispute Resolution Statistics
- High Impact Human Rights Cases